

**Trial Court Research and Improvement Consortium
Executive Program Assessment Tool:
Programs to Assist Self-Represented Litigants**

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I. Purpose of the Tool

This program assessment tool (“tool”) is designed to produce a “snap–shot” assessment of a local program to assist self-represented litigants (“program”). It is intended to provide management with information on four different levels.

1. Where best to allocate scarce resources (Program Assessment).
2. Where to fill gaps between a program’s mission and its actual process (Gap Analysis).
3. Where to develop the next stage of data analysis (Data Analysis)
4. Where to consider the next stage in program development (Emerging Practices).

II. Use of the Assessment Tool

The tool is designed to be used in an inexpensive and expeditious manner; it can be used by internal staff, or an outside analyst. This document assumes that an outside analyst will perform the assessment.

This tool is designed to be used as a part of a national effort to obtain consistent information about the structure and performance of programs to assist self-represented litigants. It comes with standard data gathering instruments. If it is necessary to obtain different data for purposes of a local program’s needs, please add questions to the instruments rather than changing the standard questions.

The Trial Court Research and Improvement Consortium provides this guide, and the accompanying instruments, with the expectation that all users of it will provide their results to the Consortium so that they can be integrated into the Consortium’s compendium of available data for purposes of better understanding these programs, improving their performance on a national basis, and providing individual programs with useful benchmarks for assessing their performance relative to other such programs.

III. Assessment Ground Rules

Clarify the nature and use of the report with the individual who has actually asked for the assessment (“the requestor”). The requestor can conceivably be the program administrator, the court administrator, the presiding judge, the program champion, or the

program funder. Issues to clarify with the requestor include: 1) the report format (e.g., formal or informal), 2) the ultimate audience, 3) report confidentiality, 4) the ultimate report deadline, and 5) the types of questions the requestor is trying to answer (e.g., whether to continue the program or simply to determine ways of improving its operation).

IV. Assessment Tool Work Product

After addressing all aspects contained in this tool, the reviewer will have assembled a significant quantity of information. As the tool is being used, the reviewer should focus on developing a report organized in the following manner:¹

- Program Strengths
- Areas Needing Improvement
- Assessment and Recommendations by Function
 - Goal Alignment Emerging Practices Evaluation
 - Client Groups Statistical and Data Analysis Strategic Planning
 - Stakeholders
- Overall Assessment
- Recommendations

V. Assessment Steps and Substance

A. Court Background Information

The reviewer should obtain background information from interviews as well as the court's website, the state court annual report, the trial court's annual report, the county or city's annual report, the state's vital statistics, program brochures, and operational flowcharts. Background information includes the following basic information on the court overall:

- jurisdiction,
- number of bench officers
- caseload and filing history
- court organization and structure
- the court's strategic plan
- the state court's administration strategic plan
- the court's budget history
- funding sources
- other courts within the jurisdiction
- size of the local bar

¹ My thanks to Marilyn K. James, Court Evaluation and Planning Officer for the San Diego Superior Court for supplying a copy of the Correctional Program Assessment Inventory, developed by Paul Gendreau and Don Andrews for ideas on this and other areas in this document.

- the demographics of the County or District including, population history, age and gender, size and growth of minority populations, languages spoken, and income dispersion

B. Program Background Information

The reviewer should also obtain similar information on the program itself.

- prospectus including goals, history, scope (case types), types of services offered, and types of clientele served
- organization (within the court or outside)
- type of staff involved (education, experience, training, length of service)
- policies and procedures (including ethical guidelines)
- governance structure
- budget and finance
- space, equipment, and facilities
- information processing systems
- collaborations with other agencies
- service portfolio such as easily understandable forms and instructions, extensive instructions via website, downloadable forms from the web site, access at local libraries, attorneys who provide advice to clients in the courthouse or in the courtroom, workshops, mobile services centers, unbundled legal services, multilingual forms and services, community outreach, training for other court staff
- statistical reports including a description of how the reports are compiled, those reports produced from computer databases, and the degree of integration with the court's overall computer database.
- a formal evaluation component

C. Program Goals

Review the status of the program goals in accordance with the following.

Issue	Assessment
Are the program goals reduced to writing?	If not, recommend written program goals that can be disseminated.
Do the goals include those normally occurring in such programs?	If not, review the general goals described and discussed below.
What is the degree of congruence between the program's goals and the court's goals?	If the program goals are not obviously in congruence with the court's goals, recommend review of program's goals and discussion with the court so that the two are in alignment. (note: the court's goals may be too narrow too)

What is the degree of congruence between the program's goals, the court's goals, and the strategic plan of the state judiciary ?	If the program goals are not obviously aligned with the state's strategic plan, recommend review of program's goals to make them more congruent with the state judiciary's strategic plan.
Does the program enjoy adequate stable funding?	If the funding is not adequate and stable, the program can fail in its goals regardless of how well designed and implemented.
To what degree do the program policies, procedures, and ethical guidelines appropriately reflect the program goals?	If written program policies, procedures, and ethical guidelines do not exist, or are not obviously aligned with the program's goals, recommend review of policies and procedures to properly align them.

The following are widely accepted goals of programs to assist self-represented litigants. During the initial interviews, ask 1) whether or not the program embraces each of these goals; 2) if not, has the program considered the goal and rejected it; and 3) if the goal was rejected, what was the rationale.

Widely Accepted Goals of Programs to Assist Self-Represented Litigants²

- Increase understanding of court orders
- Increase compliance with the terms of court orders
- Increase access to justice
- Increase the likelihood of “just” outcomes involving self-represented litigants
- Increase user satisfaction with the court process
- Increase the efficiency and effectiveness of the court system
- Increase education for court users
- Help users develop expectations that are reasonable in light of the law and the facts.

D. Client Groups

Review the program's goals and services with respect to its orientation to a variety of client groups. Client groups are the categories of individuals the program is intended to serve.

Issue	Assessment
Has the program statistically identified client groups beyond the generic “un-represented litigants wishing to use the services of the court”?	If the program has not conducted an analysis beyond the most basic, recommend such analysis by criteria including ethnicity, language, age,

² My thanks to Richard Zorza, Esq., Evaluation of Access to Justice Innovation—Six Key Questions, and to

	education, income, gender, physical disability, and issues faced. Additional information may be obtained by working with the program administrator to randomly identify and interview members of each client group using a structured questionnaire.
<p>If the program has analyzed and identified client groups beyond the basic, has the program:</p> <ul style="list-style-type: none"> • Identified the size of each group relative to the size of the population that uses the program? • Analyzed service gaps that the program could fill? • Identified ways to serve each group? • Identified reasons why each client group chooses not to use the program? 	<p>Recommend the program develop estimates of client group size, contact community leaders, and look at other programs service models in order to analyze and fill service gaps.</p>

E. Stakeholders

It is important to review the relationship of the program to its stakeholders. Stakeholders are groups who may be either positively or negatively affected by the program but are not necessarily a client group. Interview at least one representative of each stakeholder group using a structured questionnaire.

Stakeholders include:

- Judges
- Program staff
- Other court clerical staff
- Trial attorneys
- Organized bar
- Legal aid program
- County administration
- Staff of the state administrative office of the courts
- Any funding body that may have an influence upon the program, or may be a future funding resource
- Community and service organizations
- State legislators

Interviews should include 1) a review of the group's current relationship to the program; 2) the group's goals vis-a-vis the program, 3) the group's view of the program's success in meeting those goals; and 4) the group's view of the program's commitment to involving stakeholders in its processes.

F. Emerging Practices

The process should include a review of the extent to which the program is taking advantage of what are becoming viewed as emerging best practices for programs to assist self-represented litigants. Is the program making use of each of the following?

Emerging Practice	Benefits/Drawbacks/Applicability
Easily Understandable Forms and Instructions Forms and instructions written in plain English	Benefit: Improves assistance to litigants wishing to represent themselves. Challenge: The benefits must be explained to the local bar, which may feel threatened. Applicability: English speaking, literate clients
Large Type Forms and instructions in larger type.	Benefit: Extends assistance to the senior client group. Challenge: Possibly not a client group in as much need of assistance as other groups. ³ Applicability: Senior client group and others
Development of a Web Site for Self-Represented Litigants Applicable statutes and rules, extensive instructions written in plain English, downloadable forms, and interactive forms completion programs (where the program obtains the user's input in response to questions and populates the form appropriately based upon the answers).	Benefit: Extends assistance to client groups 24/7/365 Challenge: Applicable client group may be limited unless community organizations are recruited to provide access and training Applicability: Relatively technologically savvy client group and those with access to help from this group

³ In his review, Dr. Zorza strongly disagrees with the potential that this client group may not have needs as critical as other groups. This might be fertile ground for asking how relative needs of various groups can and should be assessed against each other.

Other Languages Easily understandable forms and instructions, translated into Spanish and other languages (including Braille) as designated by the county's demographics.	Benefit: Extends assistance Applicability: Minority client groups with English as a second language.
Access at Local Libraries and Community Access Sites Website available at public facilities such as public libraries, city halls, and municipal buildings together with assistance in accessing and using the website	Benefit: Extends assistance to client group without PC access Challenge: Maximizing applicable client group Applicability: Clients without personal PC and Internet access
Attorneys in the Courthouse Attorneys either employed by the court, employed by an outside agency, or working pro bono counsel litigants prior to court appearances	Benefit: High degree of interaction with the client groups Challenge: Staff intensive and could be cost prohibitive, attorneys may need to know Spanish and other languages. Issues of attorney-client relationship must be clear. Applicability: Most client groups
Attorneys in the Courthouse The judge may send litigants out of the courtroom to meet with attorney advisors in order to expedite calendars.	Benefit: Advantage of attorney advisors is much more obvious to the bench Challenge: Staff intensive. Applicability: Works best with high volume calendars. Sometimes contracted out to Legal Aid programs.
Workshops Workshops can be either run by video or live presenters.	Benefit: High degree of interaction with the client groups; ability to assist multiple clients simultaneously Challenge: Relatively staff intensive and could be cost prohibitive, attorneys may need to know Spanish and other languages Applicability: Client group must be mobile and have time to devote to the workshops

<p>Mobile Services Centers Service centers contained in mobile RV units that can be driven to various parts of the jurisdiction</p>	<p>Benefit: High degree of interaction with the client groups Drawback: Staff intensive, costly to provide equipment, attorneys may need to know Spanish and other languages Applicability: Rural jurisdictions can find this approach workable</p>
<p>Telephone Attendant Decision–Tree Systems can provide telephone assistance to self–represented clients</p>	<p>Benefits: Can provide extensive legal–procedural information 24/7/365 to client groups who may not have PC access Challenge: Many find these systems hard to use. Access to forms is still an issue. Expensive to develop and maintain</p>
<p>Training Other Court Staff Provides a customer service orientation to all public information components of the court.</p>	<p>Benefit: Carries the spirit of client service to all aspects of court operations. Requires full cooperation from court management.</p>
<p>Prehearing Screening Process A court staff member, staff attorney (sometimes called a family law facilitator) or a volunteer attorney (sometimes from legal services) reviews the papers prepared by the parties to determine their readiness for consideration by the judge. In some courts, judges meet with the parties in a prehearing conference to accomplish the same objective and to help with dispute resolution.</p>	<p>Benefit: Saves the judge and litigants the time and frustration of a failed hearing. Assists parties to identify flaws and gaps in case preparation or in voluntary agreements reached. Challenge: Clarifying the absence of an attorney-client relationship. Expensive to develop and maintain. An excellent opportunity for collaboration with legal services and state and local bar associations.</p>
<p>Unbundled Legal Services Providing access to specific legal services on a limited representation basis -- limited to a specific phase or issue in the case.</p>	<p>Benefit: Could decrease bar reluctance to participate. Helps increase form quality and courtroom efficiency. Challenge: Obtaining explicit approval of limited representation from court of last resort and acceptance by trial judges and attorneys.</p>

Community Outreach Providing information about court services and obtaining input from community members about those services and their experiences with the courts.	Benefits: Increases community support for the court system. Could involve other community groups Challenge: Initially labor intensive particularly for the bench Applicability: Access mostly through community groups
Fully Interactive Forms with on line or otherwise simultaneous Video Help	Benefits: Greater usability of court-provided forms Challenge: High development costs Applicability: Usable by clients with a wide variety of literacy and legal capacity
Customer Friendly E-Filing Court-sponsored forms completion process is linked to electronic filing system so that self-represented litigant can file form as soon as it is completed.	Benefits: Improved access to court services; greater ease of use; improved likelihood of client follow through. Challenge: High development costs; requires integration with court systems Applicability: Usable by clients with a wide variety of literacy and legal capacity

In addition, the program should be encouraged to comment on its agreement or disagreement with the inclusion of each of the above as an emerging best practice, and whether it recommends any additional practices be added to this list..

G. Evaluation

The review should include an assessment of the program's evaluation, using the following questions.

Issue	Assessment
The program's formal evaluation component: <ul style="list-style-type: none"> When did the evaluation begin? When is the evaluation expected to have a report for review? 	If the program does not include a formal evaluation, recommend that such an evaluation be included.
<ul style="list-style-type: none"> What are the evaluation criteria? Are the criteria congruent with the program goals? Do they reach all of the "widely accepted" goals of programs to assist self-represented litigants set forth in Part C? 	The program should be encouraged to expand its review and evaluation criteria in accordance with the above goals.

<ul style="list-style-type: none"> Does the program include a cycle of feedback, review, and continuous improvement? Describe the last modification to the program based upon continuous improvement. Does this cycle include stakeholders inside and beyond the courthouse? 	If the program does not include a continuous improvement cycle, recommend that such a cycle be established and that it include appropriate stakeholders.
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H. Statistics and Data Analysis

Generally, statistics and data collection should be aligned with the program goals.

Input Data	Assessment
Overall Program Workload <ul style="list-style-type: none"> Number of clients who access the program Number of cases affected by the program's services 	If the program does not collect this data, recommend that it begin to develop basic workload information.
Program Workload by Service <ul style="list-style-type: none"> Number of clients who access each service provided by the program Number of cases affected by each of the program's services 	If the program does not collect this data for each service, recommend that it begin to analyze the affect of each service.
Client Group Statistics <ul style="list-style-type: none"> Estimated size of the client group Other demographics Number of clients from the group who choose not to access the program but continue un-represented Number of clients from the group who choose to access counsel later Number of clients who abandon their case after receiving services and their reasons for doing so 	Analyze which client groups the court is serving, which it is not reaching, and then determine through the jurisdiction demographics which group would be the next most logical to develop.
Output Data	Assessment
Court Workload <ul style="list-style-type: none"> Average length of hearings compared to litigants who did not use program services Average number of hearings per case to disposition compared to 	If the program does not collect this data, recommend that it begin to analyze the cost/effectiveness of the program. Data for program users should be compared both to litigants who are represented by attorneys and those who represent themselves

litigants who did not use program services	without benefit of the program
Outcome Data	Assessment
<ul style="list-style-type: none"> • The extent to which the program increases clients' knowledge of the law and court processes applicable to their case. • The extent to which program clients are able to obtain relief. • The extent to which program clients are able to present their cases fully. • The extent to which outcomes involving each client group are "just." • The extent to which each client group is satisfied with the program and each of its services • The extent to which each client group is satisfied with the court process • The extent to which the program has made the court system more efficient and effective • The extent to which each client groups' expectations are more reasonable in light of the law and the facts 	Obtain available bench marking data from the Trial Court Research and Improvement Consortium against which to assess the performance of the program being assessed.

I. Strategic Plan

The strategic plan is intended to ensure the long-term viability of the program.

Issue	Assessment
<p>The program's strategic plan for the next three to five years including:</p> <ul style="list-style-type: none"> • Opportunities to expand the program's service to additional client groups • Program barriers and weaknesses that must be overcome in order to provide more effective service to the existing client groups or expand service to new client groups 	If the program does not include a strategic plan, recommend that it develop one. A program without such a plan is less likely to be able to adjust to changes in court leadership and resource availability.
Planned collaborations with additional	Suggest such partners

partners	
The degree of congruence between the program's strategic plan and the court's and the state judiciary's strategic plans.	If the program's plan is not obviously aligned with the court's and the state judiciary's strategic planning, recommend a review of program's plan to re-craft it to be more congruent with the court's core direction.

VI. Assessment Sharing and Building Process

This process has great value for each program that participates. That value for each of the participants, and for the community of such programs as a whole, is greatly enhanced if the product of the assessment is shared as broadly as possible.

Assessors are particularly asked, therefore, to address the following general questions in a format that may appropriately be broadly shared:

- What are the lessons that this program feels it has learned about effective program design, implementation, and enhancement?
- What does this program feel are the keys to the most effective integration into the courthouse as a whole?
- What does this program see are the keys to the most effective integration into the community?
- How should the emerging best practices listed in this document be modified?
- What are the user needs that current program models are not meeting, and how might they be met?
- What additional services could the program provide that would best enable it to expand its value and effectiveness?

Please provide these findings, together with the assessment report and a summary report of all data gathered, to the Trial Court Research and Improvement Consortium, care of Greacen Associates, john@greacen.net.

VII. Conclusion

This tool is offered in the hope that it will service individual programs, the clients of those programs, the national community of courts and court supporting organizations developing programs to assist self-represented litigants, and the cause of a legal system with true access to justice.